

REMARKS

The foregoing amendment and remarks which follow are responsive to the non-final Office Action mailed April 29, 2005 in relation to the above-identified patent application. In the Office Action, the Examiner acknowledged the claim for domestic priority under 35 U.S.C. § 120, but pointed out that the parent application (09/418,864) fails to provide adequate support under 35 U.S.C. § 112 for the claims of this application. The Examiner, however, instructed that the claims are supported by application number 09/668,966. In response, the specification is being amended to only claim priority to the 09/668,966 application. The Examiner also required new corrected drawings in compliance with 37 CFR 1.121(d). Such drawings are attached herewith. According to the Office Action, Claims 13 and 17 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Also, Claims 11-17 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 11-15 were rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Thayer et al. (i.e., United States Patent Number 6,528,323 B1). Finally, the Examiner objected to Claims 16 and 17 as being dependent upon a rejected base claim, but would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, first and second paragraphs, and to include all of the limitations of the base claim and any intervening claims.

Claims 11-15 are hereby cancelled by this amendment. Claims 16 and 17, as amended herein, are believed to be in condition for immediate allowance. Claim 16 has been rewritten to include all of the limitations of rejected Claim 11 upon which it was dependent. Furthermore, all of the 35 U.S.C. § 112 issues have been addressed by this amendment. Claim 17 has been reworded to more particularly describe the placement of the magnet, i.e., that the magnet is disposed underneath the backing, but directly beneath the lateral flow mesh and the vertical flow mesh. Claim 16, as amended, further describes the construction of vertical and lateral flow meshes so as to define the flow of a reaction mixture within them. Also, Claim 16 now states that the magnet is proximately positioned underneath the backing,

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while new Claim 18 is directed to a magnetic chromatography test strip wherein the magnet is permanently affixed to the test strip. This limitation in new Claim 18 is fully disclosed in the specification as filed and therefore no new matter has been introduced by the addition of this claim.

Based on the foregoing, Applicant respectfully submits that the claims, as amended herein, are now in condition for immediate allowance. Early notice to that effect is respectfully requested. To the extent the Examiner has any questions, requires additional information, or has any suggestions to resolve any outstanding issues that may exist, the Examiner is invited to contact Applicant's counsel at the number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 7/6/05

By:



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Amendments to the Drawings:

Please replace the drawings with the attached drawings.